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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/593,554	06/14/2000	STUART A. FRASER	CF/006	7904
1473	7590	08/31/2005	EXAMINER	
FISH & NEAVE IP GROUP ROPES & GRAY LLP 1251 AVENUE OF THE AMERICAS FL C3 NEW YORK, NY 10020-1105			SUBRAMANIAN, NARAYANSWAMY	
			ART UNIT	PAPER NUMBER
			3624	

DATE MAILED: 08/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/593,554

Applicant(s)

FRASER ET AL.

Examiner

Narayanswamy Subramanian

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16,24-32 and 47-90 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16,24-32 and 47-90 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This office action is in response to the Applicant's communication filed on May 10, 2005. Amendments to the specification, abstract and claims 16 and 67 have been entered. Objections to the abstract and rejection of claims under 35 USC § 101 are withdrawn in view of the amendments. Claims 16, 24-32 and 47-90 are pending and have been examined. The rejections and response to arguments are stated below.

Information Disclosure Statement

2. There is no record of the Information Disclosure Statement (IDS) filed by the Applicants on January 30, 2002 in the image file wrapper (IFW). Applicants are requested to provide the office a duplicate copy of the IDS for the records when filing a response to this office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 16, 24-27, 31-32, 47-51, 55-61, 65-71, 75-79 and 83-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gary (US Patent 6,618,707).

With reference to claims 16, 47, 57, 67, 75 and 83, Gary teaches methods and systems respectively for electronic trading, the method comprising: receiving bid or offer orders from a trader (See Gary Claim 1); receiving a trade command to hit or take at least one of the orders (See Gary Claim 1); determining whether the trader qualifies for an incentive for making a

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market associated with the orders received (See Gary Column 4 line 66- Column 5 line 3 and Claim 1); and for a period of time, providing the trader with an exclusive opportunity in trading if the trader qualifies for the incentive (See Gary Column 4 line 66- Column 5 line 3 and Claim 3). A network server to communicate with a plurality of workstations and to receive bids and offers for at least one item from at least one of the plurality of workstations, wherein at least one of a group consisting of at least one of the plurality of workstations and the network server are inherent in the disclosure of Gary (See also Gary Figure1 Column 7 line 35 – Column 9 line 45) The limitation “for a period of time” is given its broadest possible interpretation to include a range of time from an instant to infinity. In this claim it is interpreted to include the duration of time it takes to make a trade. The limitation of “exclusive opportunity in trading” is disclosed in Gary (See Gary Column 1 lines 50-58 and Column 15 lines 23-27).

With reference to claims 24-27, 31-32, 48-51, 55-56, 58-61, 65, 66, 68-71, 76-79 and 84-87, Gary teaches incentives based on volume of the orders (See Gary Column 4 line 66- Column 5 line 3), spread of the orders (See Gary Claim 68, quotations involving a sale and purchase implies a spread), price of the orders (See Gary Column 6 lines 4-8) and size of the orders (See Gary Column 16 lines 32-42) received from the trader respectively; determining how to provide the incentive to the trader and another incentive to another trader when both the incentive and the other incentive are due concurrently (See Gary Column 16 lines 24-28) and enabling the trader to determine incentives that have been earned by the trader in substantially real time as the incentives are earned (See Gary Column 2 lines 25-27).

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5. Claims 28-30, 52-54, 62-64, 72-74, 80-82 and 88-90 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gary (US Patent 6,618,707) in view of May (US Patent 6,421,653 B1).

With reference to claims 28-30, 52-54, 62-64, 72-74, 80-82 and 88-90 Gary teaches methods and systems of claims 16, 47, 57, 67, 75 and 83 as discussed above.

Gary does not explicitly teach incentives based on duration of the orders received from the trader, cancellations of earlier orders by the trader or a credit rating of the trader.

May teaches incentives based on duration of the orders received from the trader (See May Column 37 lines 28-36), cancellations of earlier orders by the trader (See May Column 38 lines 15-22) or a credit rating of the trader (See May claims 18 and 21).

It would have been obvious to one with ordinary skill in the art at the time of invention to include the disclosure of May to the invention of Gary. The combination of the disclosures taken as a whole suggests that the counterparty would have benefited from the knowledge that the parties to the transaction have sufficient credit to complete the transaction.

Response to Arguments

6. In response to Applicant's arguments that Gary does not teach the limitation "for a period of time, providing the trader with an exclusive opportunity in trading" the Examiner respectfully disagrees. The limitation of "exclusive opportunity in trading" is disclosed in Gary (See Gary Column 1 lines 50-58 and Column 15 lines 23-27). The limitation "for a period of time" is given its broadest possible interpretation to include the duration of time it takes to make a trade.

Applicant's other arguments with respect to claims 16, 24-32 and 47-90 have been considered but are not persuasive.

Conclusion

7. **THIS ACTION IS MADE FINAL.** See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Narayanswamy Subramanian whose telephone number is (571) 272-6751. The examiner can normally be reached Monday-Thursday from 8:30 AM to 7:00 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached at (571) 272-6747. The fax number for Formal or Official faxes and Draft to the Patent Office is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

N. Subramanian

August 26, 2005

A handwritten signature in black ink, appearing to read "Jagdish N. Patel", with a stylized flourish at the end.

Jagdish N. Patel
Primary Examiner